
Introduced by Senator Burton

January 29, 2003

An act to amend Sections 22121, 22134.5, 22720, 24203.5, and 24203.6 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 102, as introduced, Burton. State Teachers' Retirement: service credit.

Under existing law, retirement benefits under the Defined Benefit Program of the State Teachers Retirement Plan are based on the member's final compensation and years of credited service. Generally, final compensation is the highest average annual compensation earnable by the member during a 3-year period. However, for a member with 25 or more years of credited service, final compensation is the highest average annual compensation earnable by the member during a 1-year period. Also, a member is entitled to certain increases in the amount of his or her monthly retirement allowance if the member has 30 or more years of credited service. The calculation of credited service under each of these provisions excludes credit for unused sick leave.

This bill would include credit for up to 36 days of unused sick leave in the calculation of credited service for purposes of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22121 of the Education Code is
2 amended to read:

1 22121. (a) “Credited service” means service for which the
2 required contributions have been paid.

3 (b) “Credited service” for the limited purpose of determining
4 benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also
5 includes up to 36 days of service granted pursuant to Section
6 22717.

7 SEC. 2. Section 22134.5 of the Education Code is amended
8 to read:

9 22134.5. (a) Notwithstanding Section 22134, “final
10 compensation” means the highest average annual compensation
11 earnable by a member during any period of 12 consecutive months
12 while an active member of the Defined Benefit Program or time
13 during which he or she was not a member but for which the
14 member has received credit under the Defined Benefit Program,
15 except time that was so credited for service performed outside this
16 state prior to July 1, 1944. The last consecutive 12-month period
17 of employment shall be used by the system in determining final
18 compensation unless designated to the contrary in writing by the
19 member.

20 (b) For purposes of this section, periods of service separated by
21 breaks in service may be aggregated to constitute a period of 12
22 consecutive months, if the periods of service are consecutive
23 except for the breaks.

24 (c) The determination of final compensation of a member who
25 has concurrent membership in another retirement system pursuant
26 to Section 22115.2 shall take into consideration the compensation
27 earnable while a member of the other system, provided that all of
28 the following exist:

29 (1) The member was in state service or in the employment of
30 a local school district or a county superintendent of schools.

31 (2) Service under the other system was not performed
32 concurrently with service under the Defined Benefit Program.

33 (3) Retirement under the Defined Benefit Program is
34 concurrent with the member’s retirement under the other system.

35 (d) The compensation earnable for the first position in which
36 California service was credited shall be used when additional
37 compensation earnable is required to accumulate three
38 consecutive years for the purpose of determining final
39 compensation under Section 23805.



(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

~~(g) This section shall only apply to a member who has 25 or more years of credited service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to a nonmember spouse, if the member had at least 25 years of credited service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652. This section shall apply to the following:~~

(1) A member who has 25 or more years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22715.

(C) Section 22717, except as provided in subdivision (b) of Section 22121.

(D) Section 22826.

(2) A nonmember spouse, if the member had 25 or more years of credited service, as calculated in paragraph (1), on the date the parties separated, as established in the judgement or court order pursuant to Section 22652.

SEC. 3. Section 22720 of the Education Code is amended to read:

22720. The service credited pursuant to Section 22717 ~~shall~~ may not be used in the determination of final compensation, *except as provided in Section 22134.5.*

SEC. 4. Section 24203.5 of the Education Code is amended to read:

1 24203.5. (a) The percentage of final compensation used to
2 compute the allowance pursuant to Section 24202.5, 24203, or
3 24205 of a member retiring on or after January 1, 1999, who has
4 30 or more years of credited service, ~~excluding service credited~~
5 ~~pursuant to Sections 22714, 22715, 22717, and 22717.5~~, shall be
6 increased by two-tenths of 1 percentage point, provided that the
7 sum of the percentage of final compensation used to compute the
8 allowance ~~in Section 24202.5, 24203, or 24205~~, including any
9 adjustments for retiring before the normal retirement age, and the
10 additional percentage provided by this section does not exceed
11 2.40 percent.

12 (b) *For purposes of establishing eligibility for the increased*
13 *allowance pursuant to this section only, credited service shall*
14 *exclude service credited pursuant to the following:*

15 (1) *Section 22714.*

16 (2) *Section 22715.*

17 (3) *Section 22717, except as provided in subdivision (b) of*
18 *Section 22121.*

19 (4) *Section 22717.5.*

20 (c) For purposes of establishing eligibility for the increased
21 allowance pursuant to this section only, credited service shall
22 include credited service that a court has ordered be awarded to a
23 nonmember spouse pursuant to Section 22652. A nonmember
24 spouse shall also be eligible for the increased allowance pursuant
25 to this section if the member had 30 or more years of credited
26 service on the date the parties separated, as established in the
27 judgment or court order pursuant to Section 22652.

28 ~~(b)~~

29 (d) Nonqualified service credit for which contributions
30 pursuant to Section 22826 were made in a lump sum on or after
31 January 1, 2000, or for which the first installment was made on or
32 after January 1, 2000, ~~shall~~ may not be included in determining the
33 eligibility for an increased allowance pursuant to this section.

34 ~~(e) The amendments made to subdivision (a) in the first year of~~
35 ~~the 1999-2000 Regular Session are declaratory of existing law.~~

36 SEC. 5. Section 24203.6 of the Education Code is amended
37 to read:

38 24203.6. (a) In addition to the amount otherwise payable
39 pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209.5,
40 24210, 24211, and 24212, a member ~~who (1) shall receive an~~

increase in the monthly allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in subdivision (b), if the member meets all of the following criteria:

(1) The member retires for service on or after January 1, 2001; ~~(2) has, prior.~~

(2) Prior to January 1, 2011, the member has 30 or more years of credited service, ~~excluding service credited pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826~~ but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, ~~and (3) but excluding service credited pursuant to the following:~~

(A) Section 22714.

(B) Section 22715.

(C) Section 22717, except as provided in subdivision (b) of Section 22121.

(D) Section 22717.5.

(E) Section 22826.

(3) The member is receiving an allowance subject to Section 24203.5, ~~shall receive a monthly increase in the allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in the following schedule for the number of years of the member's credited service at the time of retirement, excluding service credited pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652.~~

(b) The amount of the increase in the monthly allowance shall be based on the member's years of credited service at the time of retirement as follows:

30 years of credited service	\$200
31 years of credited service	\$300
32 or more years of credited service	\$400

~~(b)~~

(c) This section also ~~shall apply~~ applies to a nonmember spouse, if ~~the~~ all of the following conditions are satisfied:

(1) The member is eligible for the allowance increase pursuant to ~~subdivision~~ subdivisions (a) and (b) upon his or her retirement for service ~~and~~.

1 (2) *On the date the parties separated, as established in the*
2 *judgment or court order pursuant to Section 22652, the member*
3 *had at least 30 years of credited service, excluding service credited*
4 *pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,*
5 *on the date the parties separated, as established in the judgment or*
6 *court order pursuant to Section 22652 and the following:*

7 (A) *Section 22714.*

8 (B) *Section 22715.*

9 (C) *Section 22717, except as provided in subdivision (b) of*
10 *Section 22121.*

11 (D) *Section 22717.5.*

12 (E) *Section 22826.*

13 (3) *The service credit of the member was divided into separate*
14 *accounts in the name of the member and the nonmember spouse*
15 *by a court pursuant to Section 22652. The amount identified in the*
16 *schedule in subdivision (a)(b) and payable pursuant to this section,*
17 *that is based on the service credited during the marriage, shall be*
18 *divided and paid to the member and the nonmember spouse*
19 *proportionately according to the respective percentages of the*
20 *member's service credit that were allocated to the member and the*
21 *nonmember spouse in the court's order.*

22 ~~(e)~~

23 (d) *The allowance increase provided under this section shall is*
24 *not be subject to Sections 24415 and 24417, but shall be is subject*
25 *to Section 22140.*

